
PRELIMINARY DRAFT
No. 3113

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2008 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 29-1-8-1.6; IC 34-30-2-122.8.

Synopsis: Access to safe deposit boxes. Establishes procedures for obtaining access to a decedent's safe deposit box.

Effective: July 1, 2008.



A BILL FOR AN ACT to amend the Indiana Code concerning probate.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 29-1-8-1.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.6. (a) The following individuals shall have access to a decedent's safe deposit box held with a financial institution upon the death of the owner of the safe deposit box, have the right to open the safe deposit box and remove contents from the safe deposit box, and have the right to cancel the contract with the financial institution, in the following order:**

(1) A surviving joint owner.

(2) The personal representative of the decedent's estate, upon presentation of letters testamentary or letters of administration to the financial institution.

(3) If no probate estate is opened or contemplated, then the named personal representative in the decedent's will or the successor trustee of the decedent's revocable trust, upon the presentation of an affidavit satisfying the requirements of subsection (b).

(4) Any other individual, upon the presentation of an order from the appropriate court directing access to the decedent's safe deposit box.

(b) An affidavit presented under subsection (a)(3) must contain the following information:

(1) The name of the decedent and the date of the decedent's death.

(2) A statement as to whether the decedent died testate or intestate.

(3) The name of the county in which the decedent was domiciled at the time of the decedent's death.

(4) A statement that no application or petition for the appointment of a personal representative has been granted or is pending in any jurisdiction.



(5) A statement under the penalties of perjury specifying the fiduciary position that qualifies the affiant under subsection (a)(3) to obtain access to the decedent's safe deposit box.

(c) A financial institution that provides access to a safe deposit box under this section is discharged and released from liability and responsibility for the assets held in the safe deposit box. The financial institution is not required to:

(1) inquire into the truth of any statement in an affidavit presented under this section; or

(2) see to the disposition of the assets held in the safe deposit box.

(d) A financial institution which:

(1) is presented with a request to access a decedent's safe deposit box by an individual described in subsection (a); and

(2) refuses to allow access to the decedent's safe deposit box within three (3) business days after being presented with the request;

is liable to the decedent's estate.

(e) A plaintiff who prevails in an action to compel a financial institution presented with a request under subsection (a) to accept the authority of the individual or in an action for damages arising from a financial institution's refusal to provide the information requested shall recover the following:

(1) Three (3) times the amount of the actual damages.

(2) Attorney's fees and court costs.

(3) Prejudgment interests on the actual damages from the date the request was presented to the financial institution under subsection (a).

SECTION 2. IC 34-30-2-122.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 122.8. IC 29-1-8-1.6 (Concerning a financial institution granting access to a safe deposit box upon the death of an individual).**

